and 11-21, without prejudice to the filing of any divisional, continuation or continuation-in-part application. Applicants traverse the restriction of Group II (claim 8) and Group III (claim 9) into independent or distinct inventions, and respectfully request that examination of the claims of Group II (claim 8) and Group III (claim 9) be joined to the examination of elected Group I at this time.

The Restriction Requirement alleges that the inventions listed as Groups I-XI do not relate to a single inventive concept under PCT Rule 13.1 and 13.2 because the Groups lack the same or corresponding special technical features. More specifically, with respect to Groups I, II and III, the Examiner asserts that the special technical feature of Group I is *isolating* disseminated tumor cells, the special technical feature of Group II is *eliminating* disseminated tumor cells and the special technical feature of Group III is *characterizing* disseminated tumor cells.

Applicants respectfully disagree with this restriction of Groups I, II and III and request reconsideration on the following grounds. Where a group of inventions is claimed in one and the same international application, the requirement for unity of invention referred to in PCT Rule 13.1 is fulfilled when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" means those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art. (PCT Rule 13.2)

Applicants respectfully submit that the special technical feature shared by the inventions of Groups I, II and III is the use of a screen having a mesh or pore width of about 15 to 30 μm that retains disseminated tumor cells when a suitable biological sample is passed through the screen. The primary distinction between the subject matter of Group I and Group II relates to the source of materials passed through the recited screen. For Group I, the source of materials is cell-containing body fluids, whereas for Group II the source of materials is cell-containing preparations. However, as the 15 to 30 μm screens employed and claimed according to the subject matter of both Groups I and II are identical, and as the use of such screens unambiguously represents the inventive concept of the subject application, this special technical feature is submitted to clearly define the common contribution which each of Groups I and II, when considered as a whole, makes over the prior art, as required under PCT Rule 13.2.

As for Group III (claim 9), this subject matter similarly shares the common special technical feature associated with Groups I and II, *i.e.*, the use of a screen having a mesh or pore width of about 15 to 30 μm that retains disseminated tumor cells when a suitable biological sample is passed through the screen. Claim 9, in fact, specifically depends from the methods according to claims 1-7, which require the use of the inventive screen having a mesh or pore width of about 15 to 30 μm to isolate disseminated tumor cells, and further comprises testing those isolated disseminated tumor cells for at least one cancer-specific gene. Thus, the subject matter of Group III requires each of the elements of Group I, plus an additional step relating to the characterization of the isolated tumor cells obtained via the methods of Group I. Again, the special technical feature shared by Group I and Group III is the use of a screen having a mesh or pore width of about 15 to 30 μm that retains disseminated tumor cells when a suitable biological sample is passed through the screen, and it is this special technical feature that defines a common contribution which each of Groups I and III, when considered as a whole, makes over the prior art, as required under PCT Rule 13.2.

Further still, Applicants respectfully submit that the examination of Groups I, II and III would not result in a serious or undue burden on the Examiner. For example, a search of Group I prior art relating to the use of a screen having a mesh or pore width of about 15 to 30 μm for the isolation of disseminated tumor cells from cell-containing body fluids would necessarily identify art related to the subject matter of Group II relating to the use of use of a screen having a mesh or pore width of about 15 to 30 μm for the elimination of disseminated tumor cells from cell-containing preparations. Additionally, a search of Group I prior art relating to the use of a screen having a mesh or pore width of about 15 to 30 μm for the isolation of disseminated tumor cells from cell-containing body fluids would necessarily identify art related to the subject matter of Group III, which specifically depends from the subject matter of Group I, and further comprises the step of testing the isolated tumor cells for the presence of at least one cancer-specific gene. Since there is no apparent burden on the Examiner, Applicants submit that the Examiner's restriction was improperly applied to Groups I, II and III.

In summary, applicants therefore hereby elect Group I with traverse for examination at this time and respectfully request that examination of the claims of Group II (claim 8) and Group III (claim 9) be joined to the examination of elected Group I on the basis that they clearly share

the same inventive concept and special technical feature, namely the use of a screen having a mesh or pore width of about 15-30 μm for retaining disseminated tumor cells. In view of the above election, applicants hereby request that claims 8, 9 and 11-21 be withdrawn from consideration by the Examiner without prejudice to the filing of any divisional, continuation, or continuation-in-part application. For reasons discussed above, applicants also respectfully request that the requirement that applicants separately prosecute Groups II and III in two separate divisional applications also be withdrawn. Consideration of the present Remarks and the elected claims is now requested.

Respectfully submitted,
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